DETAILED ACTION

1. This action is responsive to the following communications: Amendment filed 07/22/2008

This action is made Final.

2. Claims 1 -30 are pending in the case. Claims 1, 7, and 13 are the independent claims and the amended claims. Claims 22-30 are new claims.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. **Claims 1- 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murashita et al. (Publication No. 2002/0186412), in view of Squibbs et al. (hereinafter Squibbs) U.S. Patent No. 6914626 filed Feb. 21, 2001.**

As to independent claim 1, Murashita et al. teaches:

A method for generating an album (see e.g., Para. [0216], lines 15 – 18; i.e., an album corresponds to an image database or personal album) based on album data (see e.g., Para. [0085]; i.e., album data corresponds to attaching labels and image data to the photo taken, wherein the image data at least comprises of date, time, and location data, etc) including image data (see e.g., Para. [0194] – Para. [0213]; i.e., one image data set corresponds to each individual image having its own set of image data, for instance, "Image data 1" contains date, time, place, and authorized user data associated with "Image data 1"), containing at least one image (See Para 281, e.g. image viewer in the fifth embodiment displays information gathered from the 1st thru 4th embodiments, See Para 296), which has been photographed during a trip (see e.g., Para. [0194] – Para. [0197]; i.e., "Image data 1" represents a photograph taken during a trip to "Nikko Toshogu Shrine", See also Para 294) and time data (see e.g., Para. [0195] and Para 223, which specifically shows time data 11:35, 12:42 in the table) representing a time of photography attached thereto (see e.g., Para. [0216], lines 1 – 6; i.e., "Image data 1" stores date and time pf photographing), comprising the steps of:

- Obtaining travel route data (see e.g., Para. [0219], lines 1 – 5; i.e., traveling route reads information representing the date and time the photograph was taken, and the location where the photograph was taken to calculate the travel route), which includes data related to a travel route taken during the trip (see e.g., Para. [0220], lines 1 – 6; i.e., the data related to the route taken during a trip corresponds to reading out both position information of two or more pictures taken, wherein the position information includes date and time, and location of where the picture has been taken) and time of passage through given positions along the travel route (see e.g., Para. [0023] and Para. [0224], lines 1 – 6; i.e., the image data has date and time information, wherein the date and time are

calculated to signify the time of passage through a desired route, such as the departure position represented by "Nikko Toshogu Shrine" to the final destination point of "Kegon-no-taki Falls", See also Para 189, 257 and 290);

- Selecting a desired location (see e.g., Para. 281-282, the user can select an image through the image browser) along the travel route represented by the travel route data (see e.g., Para. [0290]- [293] image data is presented along the route as a five minute walk from an image displayed on the map)
- Generating album data based on the obtained related data and the image data (see e.g., Para. [0229]; i.e., an image database or personal album is generated based on image data used for displaying travel route data, and regional information).
- Murashita teaches obtaining related data (see e.g., Para. [0225], lines 7 – 8; i.e., related data corresponds to regional information from base station 40C-1 through 40C-4 and Para 285-286, 290, the map database contains related information to the location ID of the base station which is used by the camera and then its information is used in determining shop information, See Para 292). The map database is stores the related information and the image viewer/system access the database via the transceiver and the route calculation unit calculates and relates the database information to the user and then relays the information back to the user in the form of a point to point traveling route (See Para 288).

Murashita does not expressly teach:

- Obtaining related data related to the desired location from a related data storage means that stores a plurality of related data sets of related data including at least one image photographed at or in the vicinity of the desired location by a third party user;

Squibbs teaches a location informed camera that uses a variety of processes to determine the location of the camera and user while they are taking pictures and loading the camera data onto a server in real-time. Each user's information is recognized by their ID and the camera information including the GPS information is tracked and placed on a map in the map view mode for the purposes of displaying to the person or others the location and direction that the user has gone and plans to take, similar to Murashita teachings of applying the GPS information to an image. The family can browse where others in their family have gone and view the pictures they have taken at specific locations on the map (See column 3, lines 45-67 and column 4, lines 1-37), which is similar to the image viewer of Murashita. Murashita **expressly teaches** a process of allowing the system to assign a **place name** to an image that has longitude and latitude information already attached for the purposes of classifying the image in accordance with a map database (See Para 217). Squibbs teaches a process of matching separately generated image and location data by subscribing to a service to link a user's album and images to third party images uploaded for the purpose of determining the location of the photo taken and **matching** the location to the third party location data (See column 12, lines 64-67 and column 13, lines 1-67). Specifically, Squibbs teaches allowing the user to upload third party images to their catalog and then viewing a map of a location and then selecting a photo in the direction they are looking to determine the target point (See lines column 13, lines 30-41), **which is a specific example of the assigning of place name to a photo in Murashita by matching photos to a map coordinate** (See Squibbs column 13, lines 20-45 and column 14, lines 1-10). Squibbs and Murashita both teach a process of tracking a user's location and providing information from others to determine their locations. They both teach generating albums with location information to view their images on a map to determine their location and to allow others to see where they have been.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention, having the teachings of Squibbs and Murashita in front of them, to modify the system of Murashita to incorporate the third party image download into the album to determine the user's location from the third party images. The motivation the suggestion to modify the system of Murashita

comes from the suggestion in Squibbs that it is easy for a user to determine their location with the modern cell phones or cameras with equipped GPS devices **however, what is needed** is some way of uniting the location information with the photographs and in order to accommodate the separate provision for image and location data, which is signified by the metadata fields for image and location, the location field is not stored with the taken image and the user is then prompted to obtain the location information from a service that allows the camera or device to access a internet location to download third party images that have location information and using that data to determine the location of the image (See column 8, lines 59-63 and column 12, lines 60-67 and column 13, lines 19-43).

As to dependent claim 2, Murashita et al. teaches:

A method for generating an album (see e.g., Para. [0216], lines 15 – 18; i.e., an album corresponds to an image database or personal album) as defined in claim 1, wherein: the travel route data is obtained based at least on data regarding (see e.g., Para. [0225], lines 1 – 4; i.e., travel route data is based on the information labeled to the image data, such as when and where the picture was taken): a departure point (see e.g., Para. [0224]; i.e., the departure point corresponds to “Nikko Tossing Shrine”); a final destination (see e.g., Para. [0224]; i.e., the final destination corresponds to “Kegon-no-taki Falls”); date and time of departure (see e.g., Para. [0223]; i.e., the chart represents the departure date and time from “Nikko Toshogu Shrine”); date and time of arrival at the final destination (see e.g., Para. [0223]; i.e., the chart represents the date and time of arrival at “Kegon-no-taki Falls”; and method of travel (see e.g., Para. [0257], lines 8 – 18; i.e., the travel route data includes the method of travel, wherein the method of travel corresponds to walking).

As to dependent claim 3, Murashita et al. teaches:

A method for generating an album (see e.g., Para. [0216], lines 15 – 18; i.e., an album corresponds to an image database or personal album) as defined in claim 1, wherein: GPS data is attached to the image data set (see e.g., Para. [0134], lines 4 – 9; i.e., image data and GPS latitude and longitude position of the digital camera or mobile telephone are sent to a image data storage device 20B); and

the travel route data is obtained based on the GPS data (see e.g., Para. [0134], lines 6 – 8 and Para. [0220], lines 1 – 7; i.e., travel route data obtained from GPS data corresponds to reading the position information of a picture, wherein the position information represents the longitude and latitude coordinates of the GPS data).

As to dependent claim 4, Murashita et al. teaches:

A method for generating an album (see e.g., Para. [0216], lines 15 – 18; i.e., an album corresponds to an image database or personal album) as defined in claim 1, wherein: the travel route data is obtained (see e.g., Para. [0134], lines 4 – 9; i.e., travel route data corresponds to image data stored in image storage device 20B, wherein the travel route data includes date and time of picture taken, and current position of the digital camera 10B) based on location data received by a cellular telephone (see e.g., Para. [0134], lines 15 – 16; i.e., GPS-equipped mobile telephone is used in conjunction with the digital camera, wherein both digital camera 10B and GPS-equipped mobile telephone transfers image data and longitude/latitude coordinates to image data storage device 20B respectively).

As to **dependent claim 5,** as indicated in the above discussion of claim 1, Murashita in view of Squibbs teach every limitation of claim 1.

Murashita does not expressly teach where the album data is stored on a website. However, this limitation would have been obvious to one of ordinary skill in the art at the time of the invention, in view of Squibbs, because Squibbs teaches a feature of storing the photo information in an external memory or database that is accessible on a network (See column 3, lines 17-37) for the purposes of displaying the photos in a map view. The motivation to combine Squibbs and Murashita comes from the suggestion in Squibbs that there are several ways to allow the user to manage, catalogue, and view their photos through a map database (See column 3, lines 35-40).

As to dependent claim 6, Murashita et al. teaches:

A method for generating an album as defined in claim 1, wherein: the album data is recorded in a recording medium (see e.g., Para. [0122], lines 7 – 9; i.e., the recording medium used to store album

data corresponds to an image database, such as image data storage device 20A, which can also be used as a user's personal album).

As to **dependent claim 19,** as indicated in the above discussion of claim 1, Murashita in view of Squibbs teach every limitation of claim 1.

Murashita does not expressly teach wherein the third party images are at least on of aerial photos, bird's eye view photo's or photo's obtained form prohibited spots or angles. However, this limitation would have been obvious to one of ordinary skill in the art at the time of the invention, in view of Squibbs, because Squibbs teaches a feature of displaying the subject/view on the map view of the third party views for the purposes of determining location as explained in claim 1 (See Squibbs column 13, lines 20-45). Specifically, Squibbs states the user can specify the view of interest, by clicking on a target point, and then the system retrieves the photos for the selected target, which can be interpreted as selecting an area of a map and then showing aerial photos or angle shots of a given location by zooming in/out on the map (See column 3, lines 64-67 and column 4, lines 1-6 and column 7, lines 15-25). The motivation to combine Squibbs and Murashita comes from the suggestion in Squibbs that there are several ways to allow the user to manage, catalogue, and view their photos through a map database and that there is a need to unite camera location data with photo data (See column 8, lines 59-63 and column 3, lines 35-40).

As to **dependent claim 22,** Murashita teaches the method for generating an album wherein the travel route data includes data identifying a point along said travel route that was traveled through (See Para 194-213, and 218). Murashita specifically teaches recording the points as the user travels from location to location and then allowing the user to view the album with all the points displayed on a map (See Para 286-290).

As to **dependent claim 25,** as indicated in the above discussion Murashita in view of Squibbs teaches every limitation of claim 1.

Murashita does not expressly show or recite through the use of the image viewer that the generating of an album comprises manually entering in data related to the travel route using input boxes in the travel route determination screen. Murashita instead describes an input unit that allows the user to designate a location on the route they are traveling to from their current position. Murashita does not specifically show input fields, however, it is clear that the user can designate fields of interest using their own input to designate labels for retrieving a specific class of information to be displayed on the image viewer (See Para 263,273-274 and 296). Therefore, the input unit (camera) does provide an input mechanism for allowing the user to input information and interact with the viewer. Nonetheless the interface is not shown with input boxes in a travel route determination screen. This feature is taught in Squibbs as Squibbs clearly shows input controls to control the viewing of related information along the route that the user has traveled (See Figure 6 and column 6, lines 1-6). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, in view of Squibbs, to provide the image viewer of Murashita with the controls directly on the interface while viewing the image viewer to input information controlling the route mechanism for generating an album. The motivation to combine Squibbs and Murashita comes from the suggestion in Squibbs that there are several ways to allow the user to manage, catalogue, and view their photos through a map database (See column 3, lines 35-40).

As to **dependent claim 28,** as indicated in the above discussion Murashita in view of Squibbs teaches every limitation of claim 1.

Murashita does not expressly teach the method of selecting a second location along the route and obtaining spot date as to at least one spot data set correlated with the second desired location from a spot data storage means that stores spot data sets as audio or text and incorporating the spot data into the album. However, Squibbs teaches the feature as Squibbs shows that auxiliary data can be matched to a photo along with location data in an album program and the auxiliary data can comprise sound clip data and video (See column 11,lines 15-21 and column 14, lines 10-15). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the

interface of Squibbs, which allows the user to select locations on a map, and the system would relate not only the image data to a position but also and sound clips attached to the map location. The motivation to combine Squibbs and Murashita comes from the suggestion in Squibbs that there are several ways to allow the user to manage, catalogue, and view their photos through a map database (See column 3, lines 35-40).

As to claims 7-12, 20, 23, 26, 29 claims 7-12, 20, 23, 26, 29 reflect the apparatus comprising computer readable instructions for performing the steps of method claims 1-6, 19, 22, 25, 28 respectively, and are rejected along the same rationale.

As to claims 13-18, 21, 24, 27, 30 claims 13-18, 21, 24, 27, 30 reflect the computer readable medium comprising computer readable instructions for performing the steps of method claims 1-6, 19, 22, 25, 28 respectively, and are rejected along the same rationale.

It is noted that any citation to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. In re *Heck*, 699 F.2d 1331, 1332-33,216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re *Lemelson*, 397 F.2d 1006,1009, 158 USPQ 275, 277 (CCPA 1968)).

Response to Arguments

Applicant's arguments with respect to claims 1-21 have been considered but are not persuasive. The following definitions for third party data where extracted from the present application specification:

[0020] The "related data storage means" stores therein a plurality of related data sets. The "related data" **may be an image data set photographed by a third party** at the photography location or the vicinity thereof. The "related data" may alternatively be audio data of music or sounds distinct to the photography location or the vicinity thereof, obtained by recording at the photography location or the vicinity thereof in

advance or the like. The "related data" may also be text data describing the photography location or the vicinity thereof, in the case that the photography location or the vicinity thereof is site of historic interest or the like. Note that in the case that the "related data" **is an image data set photographed by a third party,** it is preferable that the image data set be one that is not usually obtainable. E**xamples of such image data sets are: that which has been photographed by a professional photographer; an aerial photograph; and a bird's eye view photograph**. In addition, the image data set is not limited to still images, and may include video data that represents moving images.

[0053] The storage means 31 also has recorded therein image data sets (referred to as "third party images" to distinguish them from the image data sets S0 photographed by the user) photographed by a professional photographer at various positions along the travel route on a map. **The third party images may also be aerial photographs, bird's eye view photographs, or other image data sets not obtainable by usual photography.** The third party images are provided in consideration of cases in which the user forgot to photograph certain spots along the travel route, or in cases that photography was prohibited at certain spots along the travel route. Further, the storage means 31 has recorded therein spot data, such as: text data describing various positions on the map, which are sites of historic interest or the like; and audio data of music or sounds distinct to various positions on the map, such as indigenous folk songs. Note that the third party images and the spot data are stored in the storage means 31, correlated with data representing their locations on the map (for example, latitude and longitude).

As it is shown in the specification, the broad meaning implied to third party images are that the images may be aerial photos, birds eye photos, or **other photos not obtained by usual photography** and can be places where the user forgot to take a picture. Squibbs teaches a specific example of downloading third party images (See column 13, middle) for the specific purpose of adding photos to their own album and for filling in the desired but not taken photo" at a specific location on the map" (See column 13, lines 44-52). Thus the examiner has applied the art consistent with the specification, as to a third party, and what is known in the common art as a

third party because the images of Squibbs are downloaded from a service to the users album over the internet and are specified as third party images.

Finally, the rejection above covers the sections of the reference that teach to the applicant's arguments and in response to the argument that “Murashita does not enable obtaining related data related data to the location along the route at which the user could not have taken the picture" the Examiner states the feature to which the applicant argues is not in the claim. Nothing in the claim suggests that the related data is to a picture that the user could not take. Additionally, even if the claim did recite the feature, Squibbs states the pictures retrieved are to solve the very issue where location information is desired with a photo even though the user did not take a photo in the specific location.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEVEN B. THERIAULT whose telephone number is (571)272-5867. The examiner can normally be reached on Mon.-Fri. 10 am - 7 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (571) 272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steven B Theriault/
Patent Examiner
Art Unit 2179